

**TITLE 10: MANAGED RISK MEDICAL INSURANCE BOARD
NOTICE OF PROPOSED REGULATIONS**

R-2-05

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) proposes to permanently adopt changes to Chapter 5.8 of Title 10 of the California Code of Regulations.

The changes are focused on implementing SB1196 which requires changes to the current HFP regulations to reflect the authority of MRMIB to receive and process National School Lunch Program (NSLP) applications and any supplemental forms forwarded from the Medi-Cal program.

MRMIB has scheduled a public hearing in Sacramento, California, for April 26, 2006 from 1:00 p.m. to 2:00 p.m. at the following address:

1000 G Street, Suite 450
Front Conference Room
Sacramento, CA 95814

It is requested, but not required, that any person wishing to present testimony should register at 1:00 p.m. on April 26, 2006. The hearing will be adjourned immediately following the completion of oral and written testimony presentations. This public hearing is for the purpose of considering regulations. The MRMIB upon its own motion, or at the instance of any interested persons, may adopt the proposals substantially as presented.

The MRMIB may modify the regulations after public hearing and adopt the modified regulations if the regulations as modified are sufficiently related to the text made available to the public, so that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action. The text of any regulation as modified will be mailed to all persons who testify or submit written comments at the public hearing, submit written comments during the public comment period, and all persons who request notification, at least 15 days prior to the date on which the MRMIB adopts the regulations. A request for a copy of any regulations as modified should be addressed to Dennis Gilliam at the address below.

Any person interested may submit written comments relating to the proposals in writing to:

Managed Risk Medical Insurance Board
Attn: Dennis Gilliam
1000 G Street, Suite 450
Sacramento, CA 95814

Comments relating to the proposals may also be faxed to Dennis Gilliam at (916) 327-6580 or e-mailed to dgilliam@mrrib.ca.gov.

Written comments must be received by 5:00 p.m. on April 26, 2006. Written comments received after April 26, 2006 may not be assured of consideration unless otherwise expressly stated by the hearing officer. It is requested, but not required, that persons making oral presentations at the hearing provide a written version of their comments at the conclusion of their remarks.

The public hearing facility is accessible to persons with mobility impairments. If you are in need of a language interpreter, including sign language, at the hearing, or have other special needs, please notify MRMIB at least two weeks prior to the hearing.

These regulations were approved as emergency regulations by the Office of Administrative Law and became effective on February 9, 2006. The MRMIB is required to complete the rulemaking process and submit a final rulemaking file to the Office of Administrative Law on or before 180 days from the effective date of these regulations, as authorized by SB 1196. Upon submission of the final rulemaking file the Office of Administrative Law will have 30 calendar days to approve or disapprove the final regulations. The regulations will stay in effect until that decision is made.

An Informative Digest/Policy Statement Overview for the proposed regulation changes, including fiscal impact statements and other required determinations are included below. These regulations are written in plain English. An Initial Statement of Reasons for the proposed action has been prepared. These, and copies of the proposed regulations, may be requested by telephone, or by writing to the above address. In addition, the Board has available a rulemaking file which contains all the information upon which the proposed regulations are based. This file is available for public perusal at the MRMIB office (see address above), during normal office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. The pertinent documents (proposed regulations and Initial Statement of Reasons) pertaining to this rulemaking can be obtained on MRMIB's website at www.mrmib.ca.gov. The final Statement of Reasons can be obtained when available, after the public hearing and final adoption, by contacting Dennis Gilliam at (916) 324-4695 or dgilliam@mrrib.ca.gov.

Please address questions and requests for available information concerning the proposed regulations to Dennis Gilliam at (916) 324-4695 or Donald Minnich at (916) 327-7978 at the address listed above. Either person can answer questions regarding the substance of the proposed regulations or can direct the question to the appropriate person within the Board. Dennis Gilliam is designated as the small business advocate contact person for the Board.

AUTHORITY AND REFERENCES

Authority: Sections 12693.21, 12693.75 and 12693.755, Insurance Code. Section 14005.41, Welfare and Institutions Code.

Reference: Sections 12693.02, 12693.21, 12693.43, 12693.46, 12693.70, 12693.71, 12693.73, 12693.74, 12693.75 and 12693.755, Insurance Code.

INFORMATIVE DIGEST

Existing Laws and Regulations

Insurance Code Section 12693, et seq., established the Healthy Families Program (HFP) in 1997, under the direction of the Managed Risk Medical Insurance Board (MRMIB).

Title 10, California Code of Regulations, Chapter 5.8 implements the Healthy Families Program.

Policy Statement Overview

In August 1997, The Federal Government established a new program, the State Children's Health Insurance Program (SCHIP), by adding Title XXI to the Social Security Act. The purpose of the program is to provide health services to uninsured, low-income children. The program is targeted to serve children whose family's income, although low, is too high to qualify for the Title XIX Medicaid Program, called Medi-Cal in California. In 1997, the Legislature passed, and the Governor signed AB 1126, (Chapter 623, Statutes of 1997). Under that law, California has taken the option of both expanding its Medi-Cal Program and establishing a new stand alone children's health insurance program, the Healthy Families Program (HFP). The Department of Health Services (DHS) administers the Medi-Cal expansion. The Managed Risk Medi-Cal Insurance Board (MRMIB) administers the HFP. The basic structure of the HFP is set out in regulations approved by the Office of Administrative Law, (Chapter 5.8 of Title 10 of the California Code of Regulations).

Senate Bill 1196 (Chapter 729, Statutes of 2004), directed the MRMIB to accept, process and determine eligibility for the HFP using the National School Lunch Program (NSLP) Health Coverage Applications and supplemental forms.

Currently, applicants apply for HFP in one of two ways: by submitting a mail-in Joint Medi-Cal/HFP application, or with the assistance of a Certified Application Assistant (CAA) using the online Health-e-App (an electronic replica of the mail-in joint Medi-Cal/HFP application).

SB 1196 includes the following provisions:

- With the applicant's consent, the NSLP application will be forwarded to the Medi-Cal program, administered by the DHS, for a no-cost Medi-Cal eligibility determination. The NSLP application, along with any supplemental forms and disclosures shall be considered as a Medi-Cal application. The DHS shall deem an applicant who submits a NSLP application to have met the income documentation requirements for participation in the no-cost Medi-Cal program, any child who is less than six years of age and who has been determined to be eligible for free meals through a federally funded program using the NSLP application.
- On and after July 1, 2005, the Medi-Cal Program will be authorized, with the applicant's consent, to forward those NSLP applications, and any supplemental forms for children who are not eligible for no-cost Medi-Cal, to the HFP administrative vendor for eligibility determination.
- The HFP will accept the NSLP application forwarded by the Medi-Cal Program to be an application for determination of HFP eligibility.

Implementing SB1196 will require changes to the current HFP regulations to reflect the authority of MRMIB to receive and process NSLP applications and any supplemental forms forwarded from the Medi-Cal program.

Subsection 2699.6600(a)(6) is amended to add: "Alternatively, the program shall utilize the school lunch application and any supplemental forms received pursuant to Section 14005.41 of the Welfare and Institutions Code to make an eligibility determination." This is included pursuant to SB 1196, which requires MRMIB/HFP to accept the form. The statute recognizes that a county will need to collect additional information in order to maintain uniform standards for all Medi-Cal applicants. This subsection also updates the most current version Medi-Cal/HFP joint application, the April, 2004 revision. This form is updated periodically to add annual income eligibility charts. There are no changes to the form questions.

Subsection 2699.6600(d) is adopted to add the forms HFP can use in the process of eligibility determination for HFP, that were originally used by county welfare offices for children referred pursuant to the School Lunch Program (Education Code Section 49557.2) and Section 14005.41 of the Welfare and Institutions Code, for Medi-Cal eligibility.

- Subsection 2699.6600(d) (1) establishes that the child's school lunch application itself shall be forwarded to the HFP. The HFP will accept the child's school lunch application as an application for determination of eligibility.

The child's school lunch application is the NSLP/Medi-Cal application, *Application for Free and Reduced Price Meals for School Year 2006-2006*. The template for this application, which has no form number or date, was approved jointly by the California Department of Education (CDE) and DHS, utilizing the required CDE and DHS criteria. Each school district may develop their own form from the template including the required CDE and DHS criteria and submit to CDE and DHS for approval. Therefore, the regulations do not incorporate this document by reference.

- Subsection 2699.6600(d)(2) establishes that the Supplemental Form for Express Enrollment Applicants (MC 368), a Medi-Cal form, will be accepted as a supplemental form for determination of HFP eligibility.
- Subsection 2699.6600(d)(3) establishes that a letter or Notice of Action from the County Welfare Office issued within the last two (2) months will be accepted along with the NSLP application and can be used for determination of HFP income eligibility, if the notice includes a statement that the applicant is eligible for share of cost Medi-Cal, a determination of total monthly household income before and after income deductions and an indication of the number of family numbers living in the household.

The above forms include the basic information the program needs to determine HFP eligibility. However additional information is needed at the time of application to complete the HFP enrollment process.

- Subsection 2699.6600(d)(4) establish the additional information and declarations the program needs to complete the HFP eligibility and enrollment that was not included in the school lunch application or supplemental Medi-Cal referral information. This information is already part of the HFP application process. Therefore, it cross references parts of the standard HFP application process already in regulation:

Subsection 2699.6600(c) (1) (C), asks the applicant's primary written and oral language. This is needed to provide equitable customer service.

Subsection 2699.6600 (c) (1) (F) 15, asks the pregnancy status and due date of any one in the household. This is needed for referral of the pregnant household member to the Medi-Cal.

Subsection 2699.6600 (c) (1) (G), is a declaration that the applicant is applying for all eligible children in the household. This is needed to determine accurate family size for inclusion in the HFP.

Subsections 2699.6600 (c) (1) (M) through (Q) and (U) through (W) are other declarations to be affirmed by all HFP applicants.

Subsections 2699.6600 (c) (1) (AA), (BB) 1. and (DD), is information and declarations necessary for selection of the program's health, dental and vision plan options.

Subsections 2699.6600 (c) (1) (GG), requests information on American Indian or Alaska Native status. This information is necessary to apply for a waiver of family contributions and benefit co-payments for American Indians and Alaska Natives, as required by federal law.

Documents Incorporated by Reference

No documents were incorporated by reference.

DETERMINATIONS

In accordance with Government Code Section 11346.5(A) (7), the Managed Risk Medical Insurance Board must determine that no reasonable alternative considered by the Board, or that has been otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The Managed Risk Medical Insurance Board has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The proposed action will not have an adverse economic impact on California business including the ability of California business to compete in other states. The changes involve individual families currently participating in or applying for the HFP, some of whom will need to pay higher premiums to participate.

The Proposed Action Differs Substantially From an Existing Comparable Federal Regulation or Statute: No

Mandates on Local Agencies or School Districts:

Under SB 1196, School Districts start the process which could later result in the school lunch application being used for HFP eligibility. However, participation by a school district in this process is voluntary.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code:

None-Participation by school districts is voluntary and there is no known impact on other local governments.

Cost to Any Local Agency or School District That Requires Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4:

None. Under SB 1196, School Districts start the process which could later result in the school lunch application being used for HFP eligibility. Per the California Department of Education's analysis of SB 1196, the costs to school districts to carry out provisions of the Act are unknown, because implementation of Express Enrollment via the National School Lunch Program by a local school district is voluntary.

Nondiscretionary Costs or Savings Imposed on Local Agencies:

None-Participation by school districts is voluntary and there is no known impact on other local governments.

Cost or Savings To Any State Agency:

To the extent that these regulations result in an increase in enrollment in the HFP, the current budget estimate should adequately cover the costs of these regulations.

Cost or Savings in Federal Funding to the State:

Costs for children enrolled in the HFP are shared between the federal and state government using a 65%/35% ratio. To the extent that these regulations result in an increase in enrollment, the current budget estimate, which includes federal funding, should adequately cover the costs of these regulations.

Business Impact Statement

The Board has assessed the impact of these regulatory changes on California businesses, including small businesses. There is no known significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The changes mainly involve individual families participating in or applying for the HFP. The Board has assessed that the impact of these regulatory changes will not be significant enough to either create new jobs or businesses or eliminate existing jobs or businesses or affect the expansion of businesses currently doing business within California.

Cost Impact on Representative Private Persons or Businesses

The Board has considered the cost impact on representative private persons or businesses impacted by these regulations. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.